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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,480	05/15/2001	Ronald Earl Highsmith	H0001323	9623

7590

05/27/2003

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EXAMINER

BARRY, CHESTER T

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,480

Applicant(s)

HIGHSMITH, RONALD EARL

Examiner

Chester T. Barry

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 20-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-19 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1724

Claim 1 is rejected under 35 U.S.C. Sec. 102(b) as anticipated by USP 3942970 to O'Donnell. O'Donnell describes a granular, high nitrogen, odorless fertilizer product made from municipal sewage sludge to which mineral acid, ammonium sulfate, and monobasic or dibasic phosphate salt had been added. Municipal sludge inherently contains carbon dioxide because carbon dioxide is a by-product of the activated sludge process and of sludge digestion. The skilled artisan would have understood from reading O'Donnell in view of Japanese Kokai Patent Publication no. 110570-1997 (April 28, 1977) that addition of acid reduces pH and reduces the amount of ammonia that is released in the vapor phase.

Claims 1, 6, 7, 9 – 12, 17 – 19 are rejected under 35 U.S.C. Sec. 103(a) as obvious over USP 3942970 to O'Donnell in view of USP 3853616 to Rundell or USP 6358511 to Weissenberg. O'Donnell describes a granular, substantially dry (less than 10wt% moisture, col 6 line 3) high nitrogen, odorless fertilizer product made from municipal sewage sludge to which mineral acid, ammonium sulfate, and monobasic or dibasic phosphate salt had been added. It is unclear whether the municipal sludge contains calcium carbonate. It would have been obvious to have dewatered the sludge on any sludge dewatering device, such as a sludge filter press, in order to reduce the weight and transportation costs of transporting wet sludge by truck to the O'Donnell process. It would have been obvious to have added a filter aid, such as calcium carbonate, to the sludge prior to dewatering to improve dewatering performance (Rundell col 2 line 37 or Weissenberg Abstract). The skilled artisan would have understood from reading

O'Donnell in view of Japanese Kokai Patent Publication no. 110570-1997 (April 28, 1977) that addition of acid reduces pH and reduces the amount of ammonia that is released in the vapor phase. Per claim 7, it would have been obvious to have selected any commercially available form of monobasic or dibasic phosphate, such as the ammonium or potassium forms thereof. Per claim 12, superphosphoric acid is a form of phosphoric acid. It would have been obvious to have used any known phosphoric acid, e.g., superphosphoric acid, in view of O'Donnell's suggestion to use any miner acid, such as sulfuric acid or phosphoric acid.

Claims 5 and 16 are rejected under 35 U.S.C. Sec. 103(a) as obvious over USP 3942970 to O'Donnell in view of USP 3853616 to Rundell or USP 6358511 to Weissenberg, as applied to claim 1 above, further in view of USP 4925571 to Jacob. Per claim 5, it would have been obvious to have anaerobically digested the sludge before feeding it to the O'Donnell method/system because this is a routine or convention method for reducing pathogen content of biosludges, as shown for example by USP 4925571 to Jacob.

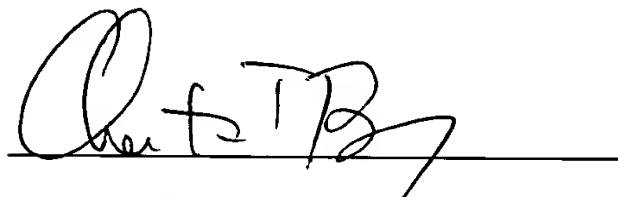
Claims 2 – 4, 13-15 are rejected under 35 U.S.C. Sec. 103(a) as obvious over USP 3942970 to O'Donnell in view of USP 3853616 to Rundell or USP 6358511 to Weissenberg, as applied above. The various recited relative proportions of compounds in the claimed composition would have been obvious because relative proportions of compounds in a composition is a known result-effective variable.

Claim 8 is objected to, but would be allowed if presented in independent form.

Applicant is requested to cancel non-elected claims 20 – 29 in response to this Office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



703-306-5921
CHESTERT. BARRY
PRIMARY EXAMINER